

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	CR. NO. 2:08cr64
	)	
ALBERT GREGORY BIRMINGHAM	)	

## ORDER

This case is before the Court on defendant's Motion to Continue Trial and Motion to Seal (Doc. # 22). For the reasons set forth below, the court finds that trial is due to be continued pursuant to 18 U.S.C. § 3161(h).

While the grant of a continuance is left to the sound discretion of the trial judge, *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs.

18 U.S.C. § 3161(c)(1). However, the Act excludes from the 70 day period any continuance based on “findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.” *Id.* § 3161(h)(8)(A). Additionally, the Act excludes “[a] reasonable period of delay when the defendant is joined for trial with a codefendant as to whom the time for trial has not run and no motion for severance has been granted.” *Id.* § 3161(h)(7).

The court finds that the ends of justice served by continuing this trial outweigh the best interest of the public and defendant Birmingham in a speedy trial. In support of his motion for continuance, Birmingham's attorney explains that a continuance is needed for the defendant to meet and negotiate with the government. The motion is unopposed by the government.

Accordingly, it is ORDERED that the Motion to Continue Case (Doc. # 22) is GRANTED, and the trial of this case is continued from the August 18, 2008 trial term to the **December 1, 2008** trial term. Additionally, it is ORDERED that the motion to seal is GRANTED.

DONE this 4th day of August, 2008.

/s/ W. Keith Watkins  
UNITED STATES DISTRICT JUDGE